

The State Bar of California

Client Security Fund - 2000 Activities Report

Public Protection

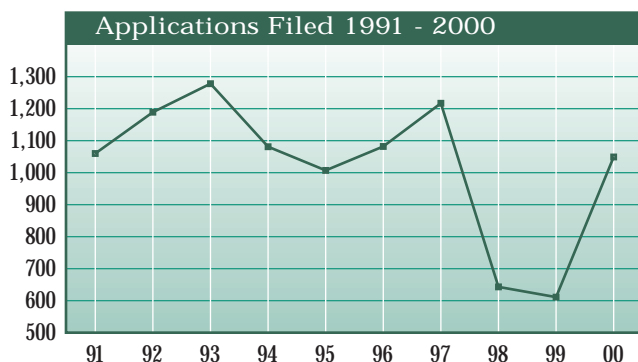
The Client Security Fund, established in 1972, represents one of the State Bar's major efforts to achieve its public protection goals. The Fund reimburses victims who have lost money or property due to theft or an equivalent dishonest act committed by a California lawyer acting in a professional capacity. Since its inception, the Fund has reimbursed applicants over \$45 million.

The Client Security Fund is designed as a remedy for legal consumers, in addition to, but separate from discipline. While the discipline system protects the public by disciplining and removing errant lawyers from the practice of law, the Fund protects the public by focusing on individual victims.

While the number of dishonest lawyers is low, the losses suffered by victims can be devastating. The Client Security Fund is a cost effective way of providing reimbursement to victims that is generally not available from any other source. Furthermore, the Fund provides the legal profession with a unique opportunity to promote public confidence in the administration of justice and the integrity of the legal profession.

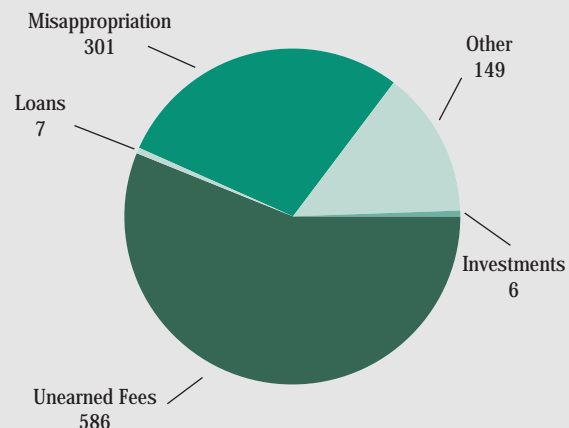
Supported entirely by lawyers, the Client Security Fund reimburses eligible applicants up to \$50,000. In the year 2000, the Fund resolved 1,095 cases, resulting in 595 awards totaling \$3,673,850.

Business increased significantly in 2000. Compared to 1999, there was a 72% increase in the number of new applications filed, a 54% increase in the number of applications paid and a 43% increase in the total number of dispositions. The filing rate for applications had dropped significantly in 1998 and 1999 due to the virtual shutdown of the discipline system during the fee bill crisis (i.e. June 1998 through March 1999).



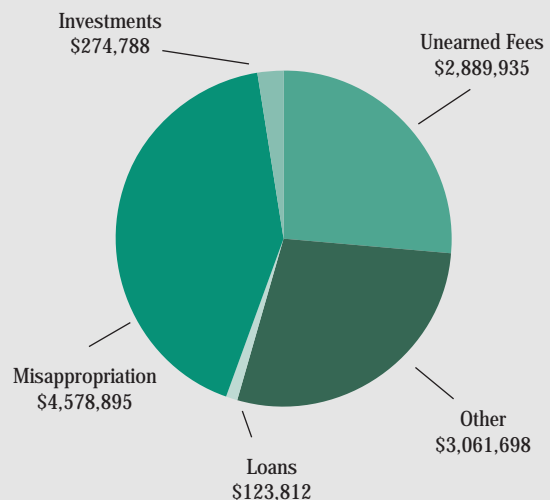
Number of Applications Filed by Category in 2000 Total: 1,049

The largest number of applications filed was in the "unearned fees" category (55.9%). The second largest number of applications filed was in the "misappropriation" category (28.7%).



Dollar Amount of Applications Filed by Category in 2000 Total: \$10,929,128

While "unearned fee" cases comprised the largest number of applications filed, "misappropriation" cases comprised the largest dollar losses reported. Unearned fee cases represented 26.4 percent of all dollar losses reported. Misappropriation cases represented 41.9 percent of all losses reported.



Thank you so much for keeping on top of my case for reimbursement. I appreciate very much your assistance and promptness in getting me reimbursed for the full amount. The check was truly a blessing. Thanks again!

Quote from Applicant, April 2000

Legislation

Oversight of the Client Security Fund is provided by the Legislature through a series of statutes, and by the Bar's Board of Governors through the Rules of Procedure, Client Security Fund Matters.

The State Bar's authority to operate the Client Security Fund is found in Business & Professions Code section 6140.5. This Legislation, effective March 4, 1972, was a result of a Board resolution dated June 17, 1971 and a Bar-sponsored bill. Section 6140.5(a) requires the Board to maintain a Client Security Fund.

Section 6140.5(b) provides a special statute of limitations whereby the Bar may bring an action to enforce its subrogation rights within three years of the date of payment to an applicant. Another part of the Bar's effort to collect against the errant lawyer is section 6140.5(c) which allows the Bar to add any CSF payout, plus interest and processing costs, to the membership dues bill of any lawyer who has been disciplined or resigns with discipline matters pending and seeks to be reinstated.

Section 6140.55 allows the Board to assess up to \$40 per active member to support the Fund. This assessment is to be used only for the purposes of the Fund. In 2000, the assessment was \$40.

Section 6149.5 serves as an early loss prevention measure. It requires insurers to provide written notice to a claimant of settlement payments of \$100 or more delivered to the claimant's lawyer or other representative in settlement of any third-party liability claim.

Another statute which affects the Fund is section 473 of the Code of Civil Procedure. Under this section, when a court sets aside a default judgment due to a party or attorney's mistake, inadvertence, surprise or excusable neglect, it may (1) impose a penalty of no more than \$1,000, (2) direct the offending attorney to pay up to \$1,000 to the Client Security Fund, or (3) grant such other relief as appropriate. Under this statute, the Fund received \$12,500 in 2000.

Rules and Coverage

The Fund is governed by the Rules of Procedure, Client Security Fund Matters which were adopted by the Board of Governors on December 21, 1985. Under these Rules, a seven-member Commission, appointed by the Board, acts as the Board's delegate in administering the Fund. From time to time, the Commission recommends to the Board amendments to the Rules of Procedure. Proposed rule changes are circulated for public comment before final action is taken by the Board.

The rules set forth the scope and purpose of the Fund, the authority of the Commission, the requirements for reimbursement, the application process, the confidentiality of the Fund records, and judicial review of Commission decisions. An applicant or Respondent lawyer may seek judicial review of a Final Decision of the Commission in the superior courts of the State under section 1094.5 of the Code of Civil Procedure.

General Basis for Reimbursement

An applicant must establish the loss of money or property which came into the hands of an active member of the State Bar while acting as a lawyer, trustee or fiduciary as defined in the Rules of Procedure, Client Security Fund Matters.

Statute of Limitations

Applications for reimbursement from the Fund must be filed within four years after the applicant discovers or reasonably should have discovered the loss.

Status of the Lawyer

In order for reimbursement to be paid, the lawyer whose dishonest conduct caused the loss must have been acting as a lawyer, or in a specified fiduciary capacity, such as the trustee of an express trust or as an escrow holder.

Also, the lawyer must have been disciplined, voluntarily resigned, died, been found mentally incompetent or been judged guilty of a crime that involved the loss. The Rules do give the Commission the discretion to waive this requirement under certain limited circumstances - for example, in clear cases when formal charges have been filed but the lawyer has not yet been disciplined.

Dishonest Conduct

A lawyer's dishonest conduct that can lead to payment from the Fund includes:

- theft or embezzlement of money or the wrongful taking or conversion of money or property;
- refusal to refund unearned fees received in advance where the lawyer performed no services or an insignificant part of the services contracted for such that the lawyer can be regarded as having lacked the intention to perform at the time payment was received;
- the borrowing of money from a client without the intention or the reasonably anticipated ability to repay it;
- obtaining money or property from a client by representing that it would be used for investment purposes when no investment is made; or
- an act of intentional dishonesty or deceit which directly leads to the loss of the money or property.

Losses not Covered

The Fund will not repay a loss if:

- it was covered by insurance, a bond or another fund;
- it was caused by negligence or malpractice; or
- it was a bad business loss such as a failed investment.

The Fund also does not cover "interest," "incidental or consequential losses" or "expenses" caused by the attorney. Examples of incidental or consequential losses would include fees applicant paid another attorney or damages caused by malpractice, negligence or incompetence.

Maximum Payment

The maximum allowable payment to an individual applicant is \$50,000 for covered losses. However, there is no limitation on the aggregate amount paid against a Respondent attorney.

Thanks to the State Bar Association for reimbursing \$50,000.00 to me from the Client Security Fund. I very much appreciate the fact that this fund was available.

Quote from Applicant, November 2000

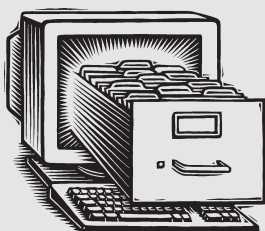
Applications Paid by Category

In 2000, the Fund paid out \$3,673,850 on 595 awards.

The largest number of applications paid was in the “unearned fees” category (62.2%). The second largest category by size was “misappropriation” (37.3%) with “investments” and “loans” representing only a few of the applications paid.

Number of Applications Paid by Category in 2000
Total: 595

Unearned Fees	370
Misappropriation	222
Investments	2
Loans	1



Dollars Paid by Category

While “unearned fees” cases represented the largest number of applications paid in 2000, “misappropriation” cases represented the largest dollar amount of applications paid. \$2,410,245, or 65.7 percent, of all dollars was paid out in the “misappropriation” category. “Unearned fee” cases represented 32.4 percent of all dollars paid out with “investments” and “loans” representing only 2 percent of the total payouts.

Dollars Paid by Category in 2000
Total: \$3,673,850

Unearned Fees	\$1,191,612
Misappropriation	\$2,412,438
Investments	\$53,800
Loans	\$16,000



5-Year Summary of Applications Paid

2000	595
1999	387
1998	517
1997	708
1996	578

5-Year Summary of Applications Paid in Dollars

2000	\$3,674,000
1999	\$2,811,000
1998	\$3,627,000
1997	\$4,661,000
1996	\$5,539,000

Applications Closed in 2000

Applications “closed” include those that are paid, rejected and withdrawn.

5-Year Summary of Applications Closed

2000	1095
1999	767
1998	978
1997	1230
1996	1043

Applications Pending

The year 2000 closed with 708 applications pending, representing \$8,803,264 in reported losses.

5-Year Summary of Applications Pending at Year's End

2000	708
1999	758
1998	913
1997	1223
1996	1236

Thank you so much for my reimbursement from the Client Security Fund. You will never know how much this means to me.

Decision Making

Policy oversight of the Client Security Fund is a joint responsibility of the Board of Governors and the Client Security Fund Commission.

The Board monitors the Fund through its: appointment of seven commissioners; approval of recommended changes and additions to the Rules of Procedure; consideration and approval of the Fund's annual administrative budget; and power to seek legislative authority to increase the lawyer's fees that support the Fund.

The Board exercises its authority as an entity and through its Board Committee on Regulation & Discipline.

Of the seven volunteer members who comprise the Commission, no more than four of them may be lawyers. They are assisted by a professional staff who screen, analyze, investigate and present cases to the Commission.

In March of 2000, a reorganization of staff reduced the total number of employees in the Client Security Fund from 14 to 9 positions. This reorganization achieved a 32 percent reduction in the annual administrative costs of operating the fund.

Among the Commission's key functions are:

- determining applications made to the Fund after a written and oral presentation of the matter by CSF staff and, occasionally, after hearing held before the Commission;
- recommending to the Board of Governors necessary staffing levels to carry out the Fund's business in a professional, timely fashion;
- taking steps to increase the efficiency and timeliness with which the Commission and staff process applications;
- monitoring the Fund balance and recommending to the Board of Governors necessary fee increases to guarantee its continued solvency;
- interpreting the Rules of Procedure through policy statements and recommending necessary amendments and additions;
- and providing for the efficient inner workings of the Commission itself.

Thank you for the Client Security Fund reimbursement check. The staff at your department was very helpful, and never seemed to be tired of listening to our concerns and complaints. The program has been of great assistance to my mother and myself. Thank you again.

Quote from Applicant
December 2000



THE STATE BAR OF CALIFORNIA
Client Security Fund
1149 South Hill Street
Los Angeles, CA 90015-2299
(213) 765-1140
www.calbar.org/Discipline/CSF/CSF.htm
Discipline Complaint Hotline: (800) 843-9053

CLAIMS ACTIVITY 1992 - 2000

Nine-year Comparison

	1992		1993		1994		1995		1996		1997		1998		1999		2000	
	Claims	Amount	Claims	Amount	Claims	Amount	Claims	Amount	Claims	Amount	Claims	Amount	Claims	Amount	Claims	Amount	Claims	Amount
Claims outstanding, beg. of year	935	\$14,008,388	855	\$11,986,737	1,031	\$14,585,181	1,221	\$16,729,319	1,197	\$17,354,678	1,236	\$16,306,378	1,223	\$15,849,180	913	\$12,270,996	758	\$10,345,650
Prior year's outstdg. claim adj. inc.	1	66,831	0	0	-5	40,667	1	140,784	0	159,580	0	116,345	16	339,685	1	101,840	(4)	(10,043)
New claims	1,177	13,060,068	1,257	16,323,295	1,065	12,757,016	975	10,117,095	1,082	12,364,140	1,217	12,717,110	652	7,879,099	611	6,780,932	1,049	10,929,128
TOTAL CLAIMS	2,113	\$27,135,287	2,112	\$28,310,032	2,091	\$27,382,864	2,195	\$26,987,198	2,279	\$29,878,398	2,453	\$29,139,833	1,891	\$24,067,964	1,525	\$19,153,768	1,803	\$21,264,735
Less: Processed Claims:																		
Paid	604	4,162,103	517	3,104,823	418	2,514,586	543	3,229,146	578	5,539,449	708	4,660,614	517	3,627,082	387	2,811,090	595	3,673,850
Rejected	124	3,656,936	85	2,987,876	72	1,974,202	50	2,119,645	90	3,206,604	73	2,982,725	74	2,414,893	69	1,883,065	132	4,061,716
Withdrawn	530	7,329,511	479	7,632,149	380	6,164,760	405	4,283,729	375	4,825,966	449	5,647,314	387	5,754,992	311	4,113,963	368	4,725,923
TOTAL PROCESSED CLAIMS	1,258	\$15,148,550	1,081	\$13,724,855	870	\$10,653,548	998	\$9,632,520	1,043	\$13,572,019	1,230	\$13,290,653	978	\$11,796,967	767	\$8,808,118	1,095	\$12,461,489
Claims outstanding, end of year	855	11,986,737	1,031	14,585,181	1,221	16,729,316	1,197	17,354,678	1,236	16,306,379	1,223	15,849,180	913	12,270,996	758	10,345,650	708	8,803,264
Claims outstanding inc./(dec.) over beginning balance	(81)	(2,088,482)	176	2,598,444	195	2,103,471	(23)	484,575	39	(1,207,880)	(13)	(573,543)	(326)	(3,917,869)	(156)	(2,027,186)	(50)	(1,542,386)
Claims payout ratio	27.88%		25.43%		22.91%		27.89%		37.79%		37.90%		32.97%		31.76%		30.20%	
Est. claims liability at payout ratio	\$3,341,902		\$3,709,012		\$3,832,687		\$4,840,220		\$6,162,181		\$6,006,839		\$4,045,747		\$3,285,778		\$2,658,586	
FUND BALANCE (end of year)	(\$927,290)		(\$307,066)		\$1,510,861		\$2,256,475		\$14,972		\$262,515		\$3,417,414		\$6,607,930		\$8,981,524	
FUND BALANCE (end of year, cash-basis)	\$2,414,612		\$3,401,946		\$5,343,548		\$7,096,695		\$6,177,153		\$6,269,354		\$7,444,022		\$9,902,786		\$11,640,110	

Financial Picture

To have a complete picture of the fund's fiscal health, it is important not only to see what money is on hand and how much has been actually paid out, but to also know how much is expected to be paid on pending cases. This anticipated payout, or accrued liability, is calculated by multiplying the total dollar amount of the pending cases times an estimated claims payable ratio. The claims payable ratio is based upon how much the fund has historically paid for every dollar claimed. For example, if the fund has historically paid \$.30 for every \$1 claimed, then the claims payable ratio is 30 percent.

The claims payable ratio used by the fund is based upon a 24-month rolling average. The accrued liability changes, not only with changes in the claims payable ratio, but also as the total dollar amount of outstanding applications changes.

The significant drop in the filing rate for applications in 1998 and 1999 due to the virtual shutdown of the discipline system during the fee bill crisis (i.e. June 1998 through March 1999) created a dramatic increase in the fund balances as of year-end 1999 and 2000. Since the fund received significantly fewer applications in 1998 and 1999, the fund's liabilities were significantly reduced thus creating higher balances. In addition, higher balances generated more investment income earned from interest.

Balance Sheet

The balance sheet shows the fund's assets and liabilities as of December 31, 2000.

Fund assets are maintained in cash and cash equivalents.

Current liabilities include estimated awards ultimately to be paid on applications which are pending as of December 31 plus next year's dues payments received early - for example, 2000 dues received in 1999.

The fund balance or deficit is simply the difference between fund assets and accrued liabilities.

Statement Of Revenues, Expenses And Changes In Fund Balance

Total revenues consist of members' dues, interest income and other revenues such as contributions.

Expenses include awards paid, accrued liabilities and administrative expenses. Awards constitute the major element. Off-set against this expense are any monies recovered from the bar's collection activities. This is reflected as "Awards Reimbursements (or Recoveries)."

The Estimated Decrease/(Increase) in Awards Payable Liability is an adjustment made at the end of the year because of a change in the accrued liability.

1998 - 2000 BALANCE SHEET STATEMENTS

	12/31/98	12/31/99	12/31/00
ASSETS:			
Cash	7,928,813	10,917,752	12,597,946
LIABILITIES & FUND BALANCES:			
Current liabilities	4,511,399	4,309,822	3,616,422
Fund balances	3,417,414	6,607,930	8,981,524
Total liabilities & Fund balances	7,928,813	10,917,752	12,597,946

1998 - 2000 STATEMENT OF REVENUES, EXPENSES AND CHANGES IN FUND BALANCES

	12/31/98	12/31/99	12/31/00
REVENUES:			
Membership dues	5,271,580	5,381,360	5,282,440
Investment Income	535,595	551,302	808,065
Other Revenues	500	-	-
TOTAL REVENUES	5,807,675	5,932,662	6,090,505
EXPENSES:			
Awards Paid/Accrued	1,824,104	1,811,841	2,972,490
Less: Awards Reimbursements or Recovery	(167,650)	(148,079)	(232,649)
Total	1,656,454	1,663,762	2,739,841
Administration	996,322	1,063,538	977,070
TOTAL EXPENSES	2,652,776	2,727,300	3,716,911
EXCESS (DEFICIT) OF REVENUES OVER EXPENSES	3,154,899	3,205,362	2,373,594
Computer technology fund applic.		(14,846)	
Estimated Decrease (Increase) in Awards Payable Liability	1,794,893	(926,168)	(627,192)
Fund Balances, as of year-end	3,417,414	6,607,930	8,981,524